

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT
(PCT Article 36 and Rule 70)

REC'D 23 FEB 2005



Applicant's or agent's file reference P10767.WO	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/E 02/00150	International filing date (<i>day/month/year</i>) 24.10.2002	Priority date (<i>day/month/year</i>) 24.10.2002
International Patent Classification (IPC) or both national classification and IPC B44D3/12		
Applicant CUMMINS, Peter		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 6 sheets, including this cover sheet.

☒ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

 These annexes consist of a total of 2 sheets.

3. This report contains indications relating to the following items:
 - I ☒ Basis of the opinion
 - II ☐ Priority
 - III ☒ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - IV ☐ Lack of unity of invention
 - V ☐ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI ☐ Certain documents cited
 - VII ☐ Certain defects in the international application
 - VIII ☐ Certain observations on the international application

Date of submission of the demand 20.05.2004	Date of completion of this report 21.02.2005
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Greiner, E Telephone No. +49 89 2399-2786 

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/E 02/00150**

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1 as published

Claims, Numbers

1-5 filed with telefax on 09.12.2004

Drawings, Sheets

1/2-2/2 as published

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

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5. ☒ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

see separate sheet

6. Additional observations, if necessary:

III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application,

☒ claims Nos. 1-5

because:

☐ the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (specify):

☒ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. 1-5 are so unclear that no meaningful opinion could be formed (*specify*):

see separate sheet

☒ the claims, or said claims Nos. 1 are so inadequately supported by the description that no meaningful opinion could be formed.

☐ no international search report has been established for the said claims Nos.

2. A meaningful international preliminary examination cannot be carried out due to the failure of the nucleotide and/or amino acid sequence listing to comply with the standard provided for in Annex C of the Administrative Instructions:

☐ the written form has not been furnished or does not comply with the Standard.

☐ the computer readable form has not been furnished or does not comply with the Standard.

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Re Item I

Basis of the report

Amendments (to point I.5.):

1. The applicant has deleted the following features from originally filed independent claim 1:
 - (i) and a section formed to allow the paint brush holder to be gripped by the user in order to attach it to a paint container
 - (ii) a section of the paint brush holder that receives the paint brush **is lower than** in one section and acts on the inertia of the paint brush
 - (iii) the paint brush when in the holder **is surrounded at four points**.
2. According to the requirements of Article 34(2)(b) PCT, these features, now defined in amended dependent claims 2, 4 and 5, should have been inserted into amended independent claim 1. The objective technical problem to be solved by the present invention seems to be in combination providing an improved grip of the holder on the container **and** an improved resting of any paint brush on said holder.

Re Item III

Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. Clarity:

- 1.1 The application does not meet the requirements of Article 6 PCT, because independent claim 1, dependent claims 2, 4 and 5 and, as a consequence, also dependent claim 3 are not clear.

1.2. Claim 1:

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The specific combination of features of present independent claim 1 is not referred to in the description. Claim 1 is therefore not supported by the description as required by Article 6 PCT, see also PCT Guidelines PCT/GL/ISPE/1, 5.43.

1.3 Claims 1, 2, 4 and 5:

The following features in the apparatus claims 1, 2, 4 and 5 relate to a method of using the apparatus rather than clearly defining the apparatus in terms of its technical features, see e.g.:

- claim 1:

"... and the paint brush holder allowing placement of the paint brush in a position where bristles of the paint brush are within the rim of the paint container",

remark: claim 1 is directed to a paint brush holder and not to a paint brush,

- claim 2:

"... such that when the paint brush is placed in the paint brush holder, the bristles of the paint brush are kept over the container so that any dripping from a paint brush received in the holder is directed into the container",

remark: claim 2 is directed to a paint brush holder and not to a paint brush,

- claim 4:

"... to be gripped by the user's thumb and finger whereby when ... placed in the inside of the container and ... held by a user's thumb and finger and is pulled away from the container, the paint brush holder can be pushed downwards onto the (rim of the) container so as to locate ... such that when the lever portion is released, the paint brush holder grips said container"

remark: claim 4 is directed to a paint brush holder and not to the finger of a user,

- claim 5:

"... thereby allowing the user to carry the container by its handle, as is necessary in the normal process of painting with paint container and paint brush".

The intended limitations are therefore not clear from these claims 1, 2, 4 and 5 contrary to the requirements of Article 6 PCT, see PCT-Guidelines

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PCT/GL/ISPE/1, 5.31 and 5.32.

2. Novelty / inventive step:

Documents D1 (= US-A-2 508 707), see whole document, and D2 (= US-A-2 578 233), see whole document, are considered to represent the most relevant state of the art.